

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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L & L PAINTING CO., INC.,

ECF CASE

Plaintiff,

08 CIV 3559 (SAS)

-against-

NOTICE OF MOTION

ODYSSEY CONTRACTING CORP.,

Defendant.
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PLEASE TAKE NOTICE that upon the annexed affidavit of Charles Fastenberg, Esq. sworn to on the 13th day of May 2008, the accompanying memorandum of law, and all prior papers and proceedings had herein, the undersigned will move this Court before the Honorable Shira A. Scheindlin, U.S.D.J., at Courtroom 15C of the United States Courthouse, 500 Pearl Street, New York, New York 10007, on the 23rd day of June 2008 at 9:30 A.M. or as soon thereafter as counsel can be heard, for an order remanding the above-entitled action from the United States District Court, Southern District of New York to the Supreme Court of the State of New York, New York County, and directing that all steps and actions necessary to effectuate such remand be taken, together with such other and further relief as this Court may deem just and proper, on the grounds that under the parties' contract, defendant, Odyssey Contracting Corp., waived its right to remove to this Court any action commenced against it by L & L Painting Co., Inc. in New York State Supreme Court, New York County.

Dated: New York, New York
May 13, 2008

THELEN REID BROWN
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Attorneys for Plaintiff
L & L Painting Co., Inc.

By: s/ Charles Fastenberg
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